



DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

RIN 0790-AL16

[Docket ID: DoD-2021-OS-0030]

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense, Department of Defense (DoD).

ACTION: Direct final rule.

SUMMARY: The DoD is amending this part to remove the exemption rules associated with five systems of records established for the Defense Manpower Data Center (DMDC) under the Privacy Act of 1974, as amended. Elsewhere in today's issue of the Federal Register, the DoD is giving concurrent notice of the rescindment of these same five DMDC systems of records notices. The DoD is also amending this part to remove the exemption rules associated with eight Privacy Act system of records notices previously rescinded by the DoD. This rule is being published as a direct final rule as the Department does not expect to receive any adverse comments. If such comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published.

DATES: This rule is effective [INSERT DATE 70 DAYS FROM PUBLICATION IN FEDERAL REGISTER] unless comments are received that would result in a contrary determination. Comments will be accepted on or before [INSERT DATE 60 DAYS FROM PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods.

* Federal eRulemaking Portal: <https://www.regulations.gov>.

Follow the instructions for submitting comments.

* Mail: The DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Kirby,
OSD.DPCLTD@mail.mil; (703) 571-0070.

SUPPLEMENTARY INFORMATION: The Privacy Act permits Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including the provisions providing individuals with a right to request access to and amendment of their own records and accountings of disclosures of such records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process to provide public notice and an opportunity to comment on the proposed exemption. The Office of the Secretary is modifying 32 CFR part 310. The rules explain why exemptions are being claimed for the associated system of records. During the rulemaking process, the public are invited to provide comments, which DoD will consider before the issuance of a final rule implementing those exemptions. The final rules implementing exemptions for DoD systems of records are codified in DoD's privacy regulation at 32 CFR part 310.

When a system of records is no longer required to be collected or maintained, the system of records may be discontinued. The notice for that system of record is rescinded in the Federal Register, and the records covered by the rescinded system of records are

lawfully transferred or disposed of in accordance with requirements. At the time of rescindment or following rescindment of the system of records notice, Federal agencies will seek also to rescind the associated exemption rules within the Code of Federal Regulations.

This rule is being published as a direct final rule as the Department does not expect to receive any significant adverse comments. If such comments are received, this direct final rule will be cancelled and a proposed rule for comments will be published. If no such comments are received, this direct final rule will become effective ten days after the comment period expires.

For purposes of this rulemaking, a significant adverse comment is one that explains (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, the Department will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice-and-comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

The DoD is modifying 32 CFR part 310 by rescinding the following regulation provisions in their entirety due to the underlying systems of records notices being rescinded (concurrently by associated public notice) or having been previously rescinded through public notice:

- 32 CFR 310.16(a)(12), *System identifier and name*. N05520-1, Personnel Security Eligibility Information System.
- 32 CFR 310.20(b)(5), *System identifier and name*. LDIA 10-0001, Equal Opportunity, Diversity and Alternate Dispute Resolution Records.

- 32 CFR 310.29(b)(2), *System identifier and name*. JS006.CND, Department of Defense Counternarcotics C4I System.
- 32 CFR 310.29(c)(1), *System identifier and name*. DGC 16, Political Appointment Vetting Files.
- 32 CFR 310.29(c)(4), *System identifier and name*. DWHS P32, Standards of Conduct Inquiry File.
- 32 CFR 310.29(c)(5), *System identifier and name*. DUSDP 02, Special Personnel Security Cases.
- 32 CFR 310.29(c)(7), *System identifier and name*. DGC 20, DoD Presidential Appointee Vetting File.
- 32 CFR 310.29(c)(15), *System identifier and name*. DCIFA 01, CIFA Operational and Analytical Records.
- 32 CFR 310.29(c)(17), *System identifier and name*. DMDC 11, Investigative Records Repository
- 32 CFR 310.29(c)(18), *System identifier and name*, DMDC 12 DoD, Joint Personnel Adjudication System (JPAS).
- 32 CFR 310.29(c)(20), *System identifier and name*, DMDC 13 DoD, Defense Clearance and Investigations Index (referenced in today's concurrent notice as DMDC 13 DoD, Defense Central Index of Investigations (DCII)).
- 32 CFR 310.29(c)(23), *System identifier and name*. DMDC 17 DoD, Continuous Evaluation Records for Personnel Security.
- 32 CFR 310.29(c)(27), *System identifier and name*. DMDC 24 DoD, Defense Information System for Security (DISS).

Regulatory Analysis

Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a significant regulatory action.

Congressional Review Act

This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. Chapter 6)

It has been certified that Privacy Act rules for the DoD do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the DoD.

Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

It has been determined that this rule does not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Section 202, Public Law 104-4, “Unfunded Mandates Reform Act”

It has been determined that this rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that it will not significantly or uniquely affect small governments.

Executive Order 13132, “Federalism”

It has been determined that this rule does not have federalism implications. This rule does not have substantial direct effects on the States, on the relationship between the

National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, 32 CFR part 310 is amended as follows:

PART 310—[AMENDED]

1. The authority citation for part 310 continues to read as follows:

Authority: 5 U.S.C. 552a.

§ 310.16 [Amended]

2. Amend § 310.16 by removing and reserving paragraph (a)(12).

§ 310.20 [Amended]

3. Amend § 310.20 by removing and reserving paragraph (b)(5).

§ 310.29 [Amended]

4. Amend § 310.29 by removing and reserving paragraphs (b)(2) and (c)(1), (4), (5), (7), (15), (17), (18), (20), (23), and (27).

Dated: June 9, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register

Liaison Officer, Department of Defense.

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